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NOTICE OF WAYS AND MEANS MOTION TO
IMPLEMENT CERTAIN PROVISIONS OF THE
FEBRUARY 23, 2005 BUDGET

March 21, 2005

THOMSON



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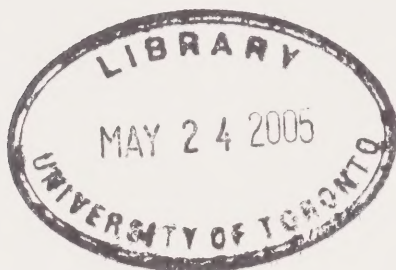
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CARSWELL

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario M1T 3V4

Customer Relations:
Toronto: 416-609-3800
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Fax: 1-416-298-5094

Table of Contents

Press Release	v
Notice of Ways and Means Motion to Implement Certain Provisions of the Budget Tabled in Parliament on February 23, 2005	1
Part 1	
Amendments in Respect of Income Tax	2
Part 2	
Amendments in Respect of the Air Travellers Security Charge	11
Part 3	
Amendments in Respect of the Goods and Services Tax and Harmonized Sales Tax	13
Part 4	
Amendments in Respect of Excise Tax on Jewellery, Etc.	20

Ottawa, March 21, 2005
2005-021

Minister of Finance Tables Notice of Ways and Means Motion to Implement Certain Budget 2005 Measures

Minister of Finance Ralph Goodale today tabled a Notice of Ways and Means Motion in the House of Commons to implement certain provisions of Budget 2005 to:

- increase the amount that Canadians can earn without paying federal income tax;
- increase the annual limits on contributions to registered retirement savings plans and other tax-deferred retirement savings plans;
- eliminate the foreign property limit on investments by pension funds and other tax-deferred retirement savings plans;
- increase the Child Disability Benefit supplement to the Canada Child Tax Benefit;
- allow for a longer period for the existence of and contributions to a registered education savings plan in certain circumstances where the plan beneficiary is eligible for the disability tax credit;
- increase the maximum refundable medical expense supplement;
- exclude emergency medical services vehicles from the definition of automobile for purposes of the standby charge and operating expense benefits;
- extend to January 11, 2005, the date for charitable giving by individuals in respect of the 2004 taxation year for the tsunami relief effort;
- eliminate the corporate surtax and reduce the general corporate income tax rate;
- extend the scientific research and experimental development (SR&ED) tax incentives to SR&ED performed in Canada's exclusive economic zone;
- reduce the Air Travellers Security Charge;
- phase out the excise tax on jewellery; and
- extend the application of the 83-per-cent goods and services tax/harmonized sales tax rebate for hospitals to government-funded non-profit entities that provide health care services traditionally performed in hospitals.

The acts proposed to be amended are the Income Tax Act, the Income Tax Application Rules, the Air Travellers Security Charge Act and the Excise Tax Act.

The Notice tabled today can be viewed free of charge on the Department of Finance Web site. Printed copies may be purchased for \$10 by contacting the Department of Finance Distribution Centre at (613) 995-2855.

Not included in this Motion are certain Budget 2005 proposals related to persons with disabilities, medical expenses, tax relief for adoption expenses and agricultural cooperative corporations. Legislation to implement these measures is being developed for introduction in a later bill.

Further information on the budget, which was tabled on February 23, 2005, is available on the Department of Finance Canada Web site.

For further information:

David Gamble
Public Affairs and Operations Division
(613) 996-8080

Pat Breton
Press Secretary
Office of the Minister of Finance
(613) 996-7861

Notice of Ways and Means Motion to Implement Certain Provisions of the Budget Tabled in
Parliament on February 23, 2005

THE MINISTER OF FINANCE

Notice of Ways and Means Motion to Implement Certain Provisions of the Budget Tabled
in Parliament on February 23, 2005

That it is expedient to implement certain provisions of the budget tabled in Parliament on February 23, 2005 as follows:

PART I
AMENDMENTS IN RESPECT OF INCOME TAX
INCOME TAX ACT

R.S., c. 1 (5th
Supp.)

1. (1) Section 37 of the *Income Tax Act* is amended by adding the following after subsection (1.2):

SR&ED in the
exclusive
economic zone

(1.3) For the purposes of this section and section 127 of this Act and Part XXIX of the *Income Tax Regulations*, an expenditure is deemed to have been made by a taxpayer in Canada if the expenditure is

(a) made by the taxpayer in the course of a business carried on by the taxpayer in Canada; and

(b) made for the prosecution of scientific research and experimental development in the exclusive economic zone of Canada, within the meaning of the *Oceans Act*, or in the airspace above that zone or the seabed or subsoil below that zone.

(2) Subsection (1) applies to expenditures made after February 22, 2005.

2. (1) The portion of subsection 86.1(2) of the Act before paragraph (a) is replaced by the following:

Eligible
distribution

(2) For the purpose of this section, a distribution by a particular corporation that is received by a taxpayer is an eligible distribution if

(2) The portion of paragraph 86.1(2)(f) of the Act before subparagraph (i) is replaced by the following:

(f) the taxpayer elects in writing filed with the taxpayer's return of income for the taxation year in which the distribution occurs that this section apply to the distribution and provides information satisfactory to the Minister

(3) Subsections (1) and (2) apply to distributions received after 2004.

3. (1) The portion of paragraph 107.4(3)(b) of the Act before subparagraph (i) is replaced by the following:

(b) the transferee trust's cost of the property is deemed to be the amount, if any, by which

(2) Paragraph 107.4(3)(c) of the Act is repealed.

(3) Subsections (1) and (2) apply to dispositions that occur after 2004.

4. Subsection 118(3.1) of the Act is replaced by the following:

Additions to
personal
credits —
basic personal
amount

(3.1) The amount of \$7,131 referred to in paragraphs (a) to (c) of the description of B in subsection (1) (in this subsection referred to as the “particular amount”) that is to be used for the purpose of determining the amount of that description is

(a) for the 2006 taxation year, to be replaced by the amount that is the total of \$100 and the amount that would be determined for that description for that year in respect of the particular amount if this section were read without reference to this subsection;

(b) for the 2007 taxation year, to be replaced by the amount that is the total of \$100 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (a);

(c) for the 2008 taxation year, to be replaced by the amount that is the total of \$400 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (b);

(d) for the 2009 taxation year, to be replaced by the amount that is the greater of

(i) the amount that is the total of \$600 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (c), and

(ii) \$10,000; and

(e) for the 2010 and subsequent taxation years, to be replaced by the amount that is the amount that would be determined for that description for those years in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (d).

Additions to
personal
credits —
spouse or
common-law
partner or
wholly
dependent
person

(3.2) The amount of \$6,055 referred to in subparagraphs (a)(ii) and (b)(iv) of the description of B in subsection (1) (in this subsection referred to as the “particular amount”) that is to be used for the purpose of determining the amount of that description is

(a) for the 2006 taxation year, to be replaced by the amount that is the total of \$85 and the amount that would be determined for that description for that year in respect of the particular amount if this section were read without reference to this subsection;

(b) for the 2007 taxation year, to be replaced by the amount that is the total of \$85 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (a);

(c) for the 2008 taxation year, to be replaced by the amount that is the total of \$340 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (b);

(d) for the 2009 taxation year, to be replaced by the amount that is the greater of

(i) the amount that is the total of \$510 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (c), and

(ii) \$8,500; and

(e) for the 2010 and subsequent taxation years, to be replaced by the amount that is the amount that would be determined for that description for those years in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (d).

Additions to
personal
credits - net
income
threshold

(3.3) The amount of \$606 referred to in subparagraphs (a)(ii) and (b)(iv) of the description of B in subsection (1) (in this subsection referred to as the "particular amount") that is to be used for the purpose of determining the amount of that description is

(a) for the 2006 taxation year, to be replaced by the amount that is the total of \$8.50 and the amount that would be determined for that description for that year in respect of the particular amount if this section were read without reference to this subsection;

(b) for the 2007 taxation year, to be replaced by the amount that is the total of \$8.50 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (a);

(c) for the 2008 taxation year, to be replaced by the amount that is the total of \$34 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (b);

(d) for the 2009 taxation year, to be replaced by the amount that is the greater of

(i) the amount that is the total of \$51 and the amount that would be determined for that description for that year in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (c), and

(ii) \$850; and

(e) for the 2010 and subsequent taxation years, to be replaced by the amount that is the amount that would be determined for that description for those years in respect of the particular amount by applying subsection 117.1(1) to the amount determined under paragraph (d).

5. For the purpose of applying section 118.1 of the Act, a gift made by an individual after 2004 and before January 12, 2005 is deemed to have been made by the individual in the individual's 2004 taxation year and not in the individual's 2005 taxation year if

- (a) the individual claims an amount under subsection 118.1(3) of the Act in respect of the gift for the individual's 2004 taxation year;
- (b) the gift was made to a registered charity listed under the International Humanitarian Assistance program of the Canadian International Development Agency;
- (c) the individual directed the charity to apply the gift to the tsunami relief effort; and
- (d) the gift was in the form of cash or was transferred by way of cheque, credit card or money order.

6. (1) Paragraph (a) of the description of A in subsection 122.51(2) of the Act is replaced by the following:

(a) \$750, and

(2) Subsection (1) applies to the 2005 and subsequent taxation years.

7. (1) The portion of the description of N in the description of M in subsection 122.61(1) of the Act before paragraph (a) is replaced by the following:

N is the product obtained by multiplying \$2,000 by the number of qualified dependants in respect of whom both

(2) Subsection (1) applies in respect of overpayments deemed to arise during months that are after June 2005.

8. (1) Section 123.2 of the Act is replaced by the following:

123.2 (1) There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation an amount equal to the corporation's specified percentage for the taxation year multiplied by the amount, if any, by which

(a) the tax payable under this Part by the corporation for the year determined without reference to this section, sections 123.3, 123.4 and 125 to 126 and subsections 127(3), (5), (27) to (31), (34) and (35) and 137(3) and as if subsection 124(1) did not contain the words "in a province"

exceeds

(b) in the case of a corporation that was throughout the year an investment corporation or a mutual fund corporation, the amount determined for A in the definition "refundable capital gains tax on hand" in subsection 131(6) in respect of the corporation for the year, and

(c) in any other case, nil.

Specified
percentage

(2) The specified percentage of a corporation for a taxation year is that proportion of 4% that the number of days in the taxation year that are before 2008 is of the number of days in the taxation year.

(2) Section 123.2 of the Act is repealed.

(3) Subsection (2) applies to taxation years that begin after 2007.

9. (1) The definition “general rate reduction percentage” in subsection 123.4(1) of the Act is replaced by the following:

“general rate
reduction
percentage”
« pourcentage
de réduction
du taux
général »

“general rate reduction percentage” of a corporation for a taxation year is the total of

(a) the proportion of 7% that the number of days in the taxation year that are before 2008 is of the number of days in the taxation year,

(b) the proportion of 7.5% that the number of days in the taxation year that are in 2008 is of the number of days in the taxation year,

(c) the proportion of 8% that the number of days in the taxation year that are in 2009 is of the number of days in the taxation year, and

(d) the proportion of 9% that the number of days in the taxation year that are after 2009 is of the number of days in the taxation year.

(2) The portion of paragraph (a) of the definition “full rate taxable income” in subsection 123.4(1) of the Act before subparagraph (ii) is replaced by the following:

(a) if the corporation is not a corporation described in paragraph (b) or (c) for the year, the amount by which the corporation’s taxable income for the year (or, for greater certainty, if the corporation is non-resident, its taxable income earned in Canada for the year) exceeds the total of

(i) if an amount is deducted under subsection 125.1(1) from the corporation’s tax otherwise payable under this Part for the year, the amount obtained by dividing the amount so deducted by the corporation’s general rate reduction percentage for the taxation year,

10. (1) The portion of subsection 125.1(1) of the Act before paragraph (a) is replaced by the following:

Manufacturing
and processing
profits
deductions

125.1 (1) There may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year an amount equal to the corporation’s general rate reduction percentage for the taxation year (within the meaning assigned by subsection 123.4(1)) multiplied by the lesser of

(2) The portion of subsection 125.1(2) of the Act before the formula is replaced by the following:

Electrical
energy and
steam

(2) A corporation that generates electrical energy for sale, or produces steam for sale, in a taxation year may deduct from its tax otherwise payable under this Part for the year an amount equal to the corporation's general rate reduction percentage for the taxation year (within the meaning assigned by subsection 123.4(1)) multiplied by the amount determined by the formula

11. (1) Subsection 146.1(1) of the Act is amended by adding the following in alphabetical order:

"specified
plan"
« régime
déterminé »

"specified plan" means an education savings plan

- (a) that does not allow more than one beneficiary under the plan at any one time,
- (b) under which the beneficiary is an individual in respect of whom paragraphs 118.3(1)(a) to (b) apply for the beneficiary's taxation year that ends in the 21st year following the year in which the plan was entered into, and
- (c) that provides that, at all times after the end of the 25th year following the year in which the plan was entered into, no other individual may be designated as a beneficiary under the plan;

(2) Clause 146.1(2)(d.1)(iii)(B) of the Act is replaced by the following:

(B) the payment is made in the year in which the plan is required to be terminated in accordance with paragraph (i), or

(3) Paragraphs 146.1(2)(h) and (i) of the Act are replaced by the following:

(h) the plan provides that no contribution (other than a contribution made by way of a transfer from another registered education savings plan) may be made into the plan after

(i) in the case of a specified plan, the 25th year following the year in which the plan was entered into, and

(ii) in any other case, the 21st year following the year in which the plan was entered into;

(i) the plan provides that it must be terminated on or before the last day of

(i) in the case of a specified plan, the 30th year following the year in which the plan was entered into, and

(ii) in any other case, the 25th year following the year in which the plan was entered into;

(4) The portion of paragraph 146.1(6.1)(b) of the Act before subparagraph (i) is replaced by the following:

(b) for the purposes of this paragraph, the definition "specified plan" in subsection (1) and paragraphs (2)(d.1), (h) and (i), the transferee plan is deemed to have been entered into on the day that is the earlier of

(5) Subsections (1) to (4) apply to the 2005 and subsequent taxation years.

12. (1) Paragraph (k) of the definition “money purchase limit” in subsection 147.1(1) of the Act is replaced by the following:

(k) for 2006, the greater of \$19,000 and the former limit for the year,

(l) for 2007, the greater of \$20,000 and the former limit for the year,

(m) for 2008, the greater of \$21,000 and the former limit for the year,

(n) for 2009, the greater of \$22,000 and the former limit for the year, and

(o) for each year after 2009, the greater of

(i) the product (rounded to the nearest multiple of \$10, or, if that product is equidistant from two such consecutive multiples, to the higher multiple) of

(A) the money purchase limit for 2009, and

(B) the quotient obtained when the average wage for the year is divided by the average wage for 2009, and

(ii) the money purchase limit for the preceding year;

(2) Subsection 147.1(1) of the Act is amended by adding the following in alphabetical order:

“former limit”
« ancien
plafond »

“former limit” for each calendar year after 2005 and before 2010 means the greater of

(a) the product (rounded to the nearest multiple of \$10, or, if that product is equidistant from two such consecutive multiples, to the higher multiple) of

(i) \$18,000, and

(ii) the quotient obtained when the average wage for the year is divided by the average wage for 2005, and

(b) for 2006, \$18,000, and for any other of those calendar years, the former limit for the preceding calendar year;

(3) Subsections (1) and (2) apply after 2004.

13. (1) Clauses 204.4(2)(a)(i)(A) and (B) of the Act are replaced by the following:

(A) not fewer than 20 beneficiaries are taxpayers described in any of paragraphs 149(1)(o) to (o.2), (o.4) or (s), or

(B) not fewer than 100 beneficiaries are taxpayers described in paragraph 149(1)(r) or (x),

(2) Subparagraphs 204.4(2)(a)(vi) and (vii) of the Act are replaced by the following:

(vi) the total value of all interests in the applicant owned by all trusts or corporations described in any of paragraphs 149(1)(o) to (o.2), (o.4) or (s) to which any

one employer, either alone or together with persons with whom the employer was not dealing at arm's length, has made contributions does not exceed 25% of the value of all its property,

(vii) the total value of all interests in the applicant owned by all trusts described in paragraph 149(1)(r) or (x) to which any one taxpayer, either alone or together with persons with whom the taxpayer was not dealing at arm's length, has made contributions does not exceed 25% of the value of all its property, and

(3) Subsection 204.4(4) of the Act is replaced by the following:

Suspension of
revocation

(4) Notwithstanding a notification to a taxpayer under subsection (3), for the purposes of sections 204.6 and 204.7, the taxpayer is deemed to be a registered investment for each month or part of a month after the notification during which an interest in, or a share of the capital stock of, the taxpayer continues, by virtue of having been a registered investment, to be a qualified investment for a plan or fund referred to in subsection (1).

(4) Subsections (1) to (3) apply to taxation years that begin after 2004.

14. (1) Clause (b)(iii)(A) of the definition "eligible investment" in subsection 204.8(1) of the Act is replaced by the following:

(A) a debt obligation, issued by the entity, that is prescribed to be a small business security, or

(2) Subsection (1) applies to taxation years that begin after 2004.

15. (1) Part XI of the Act is repealed.

(2) Subsection (1) applies to months that end after 2004.

16. (1) The heading of Part X1.1 of the Act is replaced by the following:

**TAX IN RESPECT OF DEFERRED INCOME PLANS AND OTHER TAX EXEMPT
PERSONS**

(2) Subsection (1) applies to months that end after 2004.

17. (1) Section 207.1 of the Act is amended by adding the following after subsection (4):

Tax payable in
respect of
agreement to
acquire shares

(5) Where at any time a taxpayer whose taxable income is exempt from tax under Part I makes an agreement (otherwise than as a consequence of the acquisition or writing by it of an option listed on a prescribed stock exchange) to acquire a share of the capital stock of a corporation (otherwise than from the corporation) at a price that may differ from the fair market value of the share at the time the share may be acquired, the taxpayer shall, in respect of each month during which the taxpayer is a party to the agreement, pay a tax under this Part equal to the total of all amounts each of which is the amount, if any, by which the amount of a dividend paid on the share at a time in the month at which the taxpayer is a party to the agreement exceeds the amount, if any, of the dividend that is received by the taxpayer.

(2) Subsection (1) applies to months that end after 2004.

18. (1) The definition “automobile” in subsection 248(1) of the Act is amended by adding the following after paragraph (b.1):

(b.2) a clearly marked emergency medical response vehicle that is used, in connection with or in the course of an individual’s office or employment with an emergency medical response or ambulance service, to carry emergency medical equipment together with one or more emergency medical attendants or paramedics,

(2) Paragraph (c) of the definition “disposition” in subsection 248(1) of the Act is replaced by the following:

(c) any transfer of the property to a trust or, where the property is property of a trust, any transfer of the property to any beneficiary under the trust, except as provided by paragraph (f) or (k), and

(3) Paragraph (g) of the definition “disposition” in subsection 248(1) of the Act is repealed.

(4) Subsection (1) applies to the 2005 and subsequent taxation years.

(5) Subsections (2) and (3) apply to dispositions that occur after 2004.

19. (1) The portion of subsection 259(1) of the Act before paragraph (a) is replaced by the following:

Proportional
holdings in
trust property

259. (1) For the purposes of subsections 146(6), (10) and (10.1) and 146.3(7), (8) and (9) and Parts X, X.2 and XI.1, if at any time a taxpayer that is a registered investment or that is described in paragraph 149(1)(r), (s), (u) or (v) acquires, holds or disposes of a particular unit in a qualified trust and the qualified trust elects for any period that includes that time to have this subsection apply,

(2) Paragraph 259(1)(c) of the Act is repealed.

(3) Subsection 259(2) of the Act is repealed.

(4) Subsections 259(3) and (4) of the Act are replaced by the following:

Election

(3) An election by a qualified trust under subsection (1) shall be made by the qualified trust filing a prescribed form with the Minister and shall apply for the period

(a) that begins on the later of

(i) the day that is 15 months before the day on which the election is filed, and

(ii) the day, if any, that is designated by the qualified trust in the election; and

(b) that ends on the earlier of

(i) the day on which the qualified trust files with the Minister a notice of revocation of the election, and

(ii) the day, if any, that is designated by the qualified trust in the notice of revocation and that is not before the day that is 15 months before the day on which the notice of revocation is filed.

Requirement
to provide
information

(4) Where a qualified trust elects under subsection (1),

(a) it shall provide notification of the election

(i) within 30 days after making the election, to each person who held a unit in the qualified trust at any time in the period before the election was made and during which the election is applicable, and

(ii) at the time of acquisition, to each person who acquires a unit in the qualified trust at any time in the period after the election was made and during which the election is applicable; and

(b) if a person who holds a unit in the qualified trust at any time in the period during which the election is applicable makes a written request to the qualified trust for information that is necessary for the purpose of determining the consequences under this Act of the election for that person, the qualified trust shall provide to the person that information within 30 days after receiving the request.

(5) The definition “qualified corporation” in subsection 259(5) of the Act is repealed.

(6) Subsections (1) to (5) apply to taxation years that begin after 2004.

R.S., c. 2 (5th
Supp.)

INCOME TAX APPLICATION RULES

20. (1) Section 65 of the *Income Tax Application Rules* is repealed.

(2) Subsection (1) applies to months that end after 2004.

PART 2

AMENDMENTS IN RESPECT OF THE AIR TRAVELLERS SECURITY CHARGE

2002, c. 9, s. 5

AIR TRAVELLERS SECURITY CHARGE ACT

2003, c. 12, s.
44(1)

21. (1) The portion of paragraph 12(1)(a) of the *Air Travellers Security Charge Act* before subparagraph (i) is replaced by the following:

(a) \$4.67 for each chargeable emplanement included in the service, to a maximum of \$9.35, if

2003, c. 15, s.
44(1)

(2) The portion of paragraph 12(1)(b) of the Act before subparagraph (i) is replaced by the following:

(b) \$5.00 for each chargeable emplanement included in the service, to a maximum of \$10.00, if

2003, c. 15, s.
44(1)

(3) The portion of paragraph 12(1)(c) of the Act before subparagraph (i) is replaced by the following:

(c) \$7.94 for each chargeable emplanement included in the service, to a maximum of \$15.89, if

2003, c. 15, s.
44(1)

(4) The portion of paragraph 12(1)(d) of the Act before subparagraph (i) is replaced by the following:

(d) \$8.50 for each chargeable emplanement included in the service, to a maximum of \$17.00, if

2003, c. 15, s.
44(1)

(5) Paragraph 12(1)(e) of the Act is replaced by the following:

(e) \$17.00, if the service includes transportation to a destination outside the continental zone.

(6) The portion of paragraph 12(2)(a) of the Act before subparagraph (i) is replaced by the following:

(a) \$7.94 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of \$15.89, if

(7) The portion of paragraph 12(2)(b) of the Act before subparagraph (i) is replaced by the following:

(b) \$8.50 for each chargeable emplanement by an individual on an aircraft used to transport the individual to a destination outside Canada but within the continental zone, to a maximum of \$17.00, if

(8) Paragraph 12(2)(c) of the Act is replaced by the following:

(c) \$17.00, if the service includes transportation to a destination outside the continental zone.

(9) Subsections (1) to (8) apply in respect of any air transportation service that includes a chargeable emplanement on or after March 1, 2005 and for which any consideration is paid or becomes payable on or after that day.

COORDINATING AMENDMENT

Bill C-33

22. (1) Subsections (2) and (3) apply if Bill C-33, introduced in the 1st session of the 38th Parliament and entitled the *Budget Implementation Act, 2004, No. 2* (the “other Act”), receives royal assent.

(2) If the other Act receives royal assent on the same day as this Act, section 2 of the other Act is deemed to have come into force immediately before section 21 of this Act.

(3) If the other Act receives royal assent after this Act, then, on the day on which the other Act is assented to, subsection 2(9) of the other Act is replaced by the following:

(9) Subsections (1) to (8) apply in respect of any air transportation service that includes a chargeable emplanement on or after April 1, 2004 and for which any consideration is paid or becomes payable on or after April 1, 2004 but do not apply in respect of any air transportation service that includes a chargeable emplanement on or after

March 1, 2005 and for which any consideration is paid or becomes payable on or after March 1, 2005.

PART 3
AMENDMENTS IN RESPECT OF THE GOODS AND SERVICES TAX AND
HARMONIZED SALES TAX

R.S., c. E-15

EXCISE TAX ACT

23. (1) The definition “selected public service body” in subsection 259(1) of the *Excise Tax Act* is amended by striking out the word “or” at the end of paragraph (d) and by adding the following after paragraph (e):

- (f) a facility operator, or
- (g) an external supplier;

2004, c. 22, s.
39(1)

(2) Paragraph (b) of the definition “specified percentage” in subsection 259(1) of the *Act* is replaced by the following:

(b) in the case of a hospital authority, a facility operator or an external supplier, 83%,

(3) Subsection 259(1) of the *Act* is amended by adding the following in alphabetical order:

“ancillary
supply”
« fourniture
concomme »

“ancillary supply” means

(a) an exempt supply of a service of organizing or coordinating the making of facility supplies or home medical supplies in respect of which supply an amount, other than a nominal amount, is paid or payable to the supplier as medical funding, or

(b) the portion of an exempt supply (other than a facility supply, a home medical supply or a prescribed supply) of property or a service (other than a financial service) that represents the extent to which the property or service is, or is reasonably expected to be, consumed or used for making a facility supply and in respect of which portion an amount, other than a nominal amount, is paid or payable to the supplier as medical funding;

“external
supplier”
« fournisseur
externe »

“external supplier” means a charity, a public institution or a qualifying non-profit organization (other than a hospital authority or a facility operator), that makes ancillary supplies, facility supplies or home medical supplies;

“facility
operator”
« exploitant
d’établissement
»

“facility operator” means a charity, a public institution or a qualifying non-profit organization (other than a hospital authority), that operates a qualifying facility;

“facility
supply”
« fourniture en
établissement
»

“facility supply” means an exempt supply (other than a prescribed supply) of property or a service in respect of which

(a) the property is made available, or the service is rendered, to an individual at a public hospital or qualifying facility as part of a medically necessary process of health care for the individual for the purpose of maintaining health, preventing disease, diagnosing or treating an injury, illness or disability or providing palliative health care, which process

(i) is undertaken in whole or in part at the public hospital or qualifying facility,

(ii) is reasonably expected to take place under the active direction or supervision, or with the active involvement, of

(A) a physician acting in the course of the practise of medicine,

(B) a midwife acting in the course of the practise of midwifery,

(C) if a physician is not readily accessible in the geographic area in which the process takes place, a nurse practitioner acting in the course of the practise of a nurse practitioner, or

(D) a prescribed person acting in prescribed circumstances, and

(iii) in the case of chronic care that requires the individual to stay overnight at the public hospital or qualifying facility, requires or is reasonably expected to require that

(A) a registered nurse be at the public hospital or qualifying facility at all times when the individual is at the public hospital or qualifying facility,

(B) a physician or, if a physician is not readily accessible in the geographic area in which the process takes place, a nurse practitioner, be at, or be on-call to attend at, the public hospital or qualifying facility at all times when the individual is at the public hospital or qualifying facility,

(C) throughout the process, the individual be subject to medical management and receive a range of therapeutic health care services that includes registered nursing care, and

(D) it not be the case that all or substantially all of each calendar day or part during which the individual stays at the public hospital or qualifying facility is time during which the individual does not receive therapeutic health care services referred to in clause (C), and

(b) if the supplier does not operate the public hospital or qualifying facility, an amount, other than a nominal amount, is paid or payable as medical funding to the supplier;

"home medical supply"
« fourniture de
biens ou
services
médicaux à
domicile »

"home medical supply" means an exempt supply (other than a facility supply or a prescribed supply) of property or a service

(a) that is made

(i) as part of a medically necessary process of health care for an individual for the purpose of maintaining health, preventing disease, diagnosing or treating an injury, illness or disability or providing palliative health care, and

(ii) after a physician acting in the course of the practise of medicine, or a prescribed person acting in prescribed circumstances, has identified or confirmed that it is appropriate for the process to take place at the individual's place of residence or lodging (other than a public hospital or a qualifying facility),

(b) in respect of which the property is made available, or the service is rendered, to the individual at the individual's place of residence or lodging (other than a public hospital or a qualifying facility), on the authorization of a person who is responsible for coordinating the process and under circumstances in which it is reasonable to expect that the person will carry out that responsibility in consultation with, or with ongoing reference to instructions for the process given by, a physician acting in the course of the practise of medicine, or a prescribed person acting in prescribed circumstances,

(c) all or substantially all of which is of property or a service other than meals, accommodation, domestic services of an ordinary household nature, assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the individual, and

(d) in respect of which an amount, other than a nominal amount, is paid or payable as medical funding to the supplier;

"medical
funding"
« subvention
médicale »

"medical funding" of a supplier in respect of a supply means an amount of money (including a forgivable loan but not including any other loan or a refund, remission or rebate of, or credit in respect of, taxes, duties or fees imposed under any statute) that is paid or payable to the supplier in respect of health care services for the purpose of financially assisting the supplier in making the supply or as consideration for the supply by

(a) a government, or

(b) a person that is a charity, a public institution or a qualifying non-profit organization

(i) one of the purposes of which is organizing or coordinating the delivery of health care services to the public, and

(ii) in respect of which it is reasonable to expect that a government will be the primary source of funding for the activities of the person that are in respect of the delivery of health care services to the public during the fiscal year of the person in which the supply is made;

"midwife"
« sage-femme
»

"midwife" means a person who is entitled under the laws of a province to practise the profession of midwifery;

"physician"
« médecin »

"physician" means a person who is entitled under the laws of a province to practise the profession of medicine;

"qualifying
funding"
« subvention
admissible »

"qualifying funding" of the operator of a facility for all or part of a fiscal year of the operator means a readily ascertainable amount of money (including a forgivable loan but not including any other loan or a refund, remission or rebate of, or credit in respect of, taxes, duties or fees imposed under any statute) that is paid or payable to the operator in respect of the delivery of health care services to the public for the purpose of financially assisting in operating the facility during the fiscal year or part, as consideration for an exempt supply of making the facility available for use in making facility supplies at the facility during the fiscal year or part or as consideration for facility supplies of property that are made available, or services that are rendered, at the facility during the fiscal year or part and is paid or payable by

(a) a government, or

(b) a person that is a charity, a public institution or a qualifying non-profit organization

(i) one of the purposes of which is organizing or coordinating the delivery of health care services to the public, and

(ii) in respect of which it is reasonable to expect that a government will be the primary source of funding for the activities of the person that are in respect of the delivery of health care services to the public during the fiscal year of the person in which the supply is made;

"specified
activities"
« activités
déterminées »

"specified activities" means activities referred to in any of clauses (4.1)(b)(iii)(B) to (D), other than the operation of a public hospital;

"specified
supply"
« fourniture
déterminée »

"specified supply" of property of a person means

(a) a taxable supply made to the person at any time after December 31, 2004, of property that was owned on that day by the person or by another person who is related to the person at that time, or

(b) a taxable supply that the person is deemed under subsection 211(4) to have made after December 30, 2004, of property that was, on that day, owned by the person, or by another person who last supplied the property to the person by way of sale and who was related to the person on the day the supply by way of sale was made.

(4) Section 259 of the Act is amended by adding the following after subsection (2):

Qualifying
facilities

(2.1) For the purposes of this section, a facility, or part of a facility, other than a public hospital, is a qualifying facility for a fiscal year, or any part of a fiscal year, of the operator of the facility or part, if

(a) supplies of services that are ordinarily rendered during that fiscal year or part to the public at the facility or part would be facility supplies if the references in the definition "facility supply" in subsection (1) to "public hospital or qualifying facility" were references to the facility or part;

(b) an amount, other than a nominal amount, is paid or payable to the operator as qualifying funding in respect of the facility or part for the fiscal year or part; and

(c) an accreditation, licence or other authorization that is recognized or provided for under a law of Canada or a province in respect of facilities for the provision of health care services applies to the facility or part during that fiscal year or part.

2004, c. 22, s.
39(4)

(5) Subparagraphs 259(4.1)(b)(i) to (iii) of the Act are replaced by the following:

(i) the reference in subsection (4) to “specified percentage” were read as a reference to “specified percentage applicable to a selected public service body described in whichever of paragraphs (a) to (g) of the definition of that expression in subsection (1) applies to the person minus 50%”,

(ii) the reference in subsection (4) to “specified provincial percentage” were read as a reference to the greater of “specified provincial percentage applicable to a selected public service body described in whichever of paragraphs (a) to (e) of the definition of that expression in subsection (1) applies to the person minus 50%” and “0%”,

(iii) in the case of a person who is not designated to be a municipality for the purposes of this section, the reference in the description of C in subsection (4) to “designated activities” were read as a reference to

(A) in the case of a person determined to be a municipality under paragraph (b) of the definition “municipality” in subsection 123(1), activities engaged in by the person in the course of fulfilling the person’s responsibilities as a local authority,

(B) in the case of a person acting in the person’s capacity as a hospital authority, activities engaged in by the person in the course of operating a public hospital, operating a qualifying facility for use in making facility supplies, or of making facility supplies, ancillary supplies or home medical supplies,

(C) in the case of a person acting in the person’s capacity as a facility operator, activities engaged in by the person in the course of operating a qualifying facility for use in making facility supplies, or of making facility supplies, ancillary supplies or home medical supplies,

(D) in the case of a person acting in the person’s capacity as an external supplier, activities engaged in by the person in the course of making ancillary supplies, facility supplies or home medical supplies, or

(E) in any other case, activities engaged in by the person in the course of operating a recognized degree-granting institution, a college affiliated with, or research body of, such an institution, an elementary or secondary school or a post-secondary college or technical institute, as the case may be, and

(iv) in the case of a person who is not designated to be a municipality for the purposes of this section, the reference in the description of F in subsection (4) to “designated activities” were read as a reference to

(A) in the case of a person determined to be a municipality under paragraph (b) of the definition “municipality” in subsection 123(1), activities engaged in by the person in the course of fulfilling the person’s responsibilities as a local authority, or

(B) in any other case, activities engaged in by the person in the course of operating a recognized degree-granting institution, a college affiliated with, or research body of, such an institution, a public hospital, an elementary or secondary school or a post-secondary college or technical institute, as the case may be.

2004, c. 22, s.
39(4)

(6) The portion of subsection 259(4.2) of the Act before paragraph (a) is replaced by the following:

Exclusions

(4.2) For the purposes of determining a rebate payable to a person, in determining an amount under paragraphs (3)(a) and (4)(a), or under paragraph (4.1)(a) if the applicable specified provincial percentage is 0% and the person is a selected public service body described in any of paragraphs (a) to (e) of the definition “selected public service body” in subsection (1) or in paragraph (f) or (g) of that definition if the person is resident in Newfoundland and Labrador, no tax under any of subsection 165(2), sections 212.1 and 218.1 and Division IV.1 payable or deemed to have been paid or collected by the person shall be included

2000, c. 30, s.
76(6)

(7) Subparagraph 259(4.3)(c)(ii) of the Act is replaced by the following:

(ii) in any other case, that it engages in otherwise than in the course of

(A) fulfilling its responsibilities as a local authority,

(B) operating a public hospital, an elementary or secondary school, a post-secondary college or technical institute, a recognized degree-granting institution or a college affiliated with or research body of such a degree-granting institution, or

(C) making facility supplies, ancillary supplies or home medical supplies or operating a qualifying facility for use in making facility supplies,

1993, c. 27, s.
115(3)

(8) Subsection 259(7) of the English version of the Act is replaced by following:

Selected
public service
bodies

(7) If a selected public service body acquires or imports property or a service primarily for consumption, use or supply in the course of activities engaged in by another selected public service body, for the purpose of determining the amount of a rebate under this section to the body in respect of the non-creditable tax charged in respect of the property or service for any claim period of the body, the body is deemed to be engaged in those activities.

1993, c. 27, s.
115(3)

(9) Subsection 259(8) of the Act is replaced by the following:

Selected
public service
bodies

(8) If a person acquires or imports property or a service primarily for consumption, use or supply in the course of activities engaged in by the person acting in the capacity of a selected public service body described in any of paragraphs (a) to (g) of the definition “selected public service body” in subsection (1), the amount of any rebate under this section to the person in respect of the non-creditable tax charged in respect of the property or service

for a claim period shall be determined as if the person were not a selected public service body described in any other of those paragraphs.

(10) Section 259 of the Act is amended by adding the following after subsection (13):

Application

(14) For the purposes of this section, if a person incurs all or substantially all of the tax that is included in determining the amount of the non-creditable tax charged in respect of property or a service for a claim period of the person acting in the person's capacity as a hospital authority, a facility operator or an external supplier, the person is deemed to have incurred all of the tax that is included in determining that amount in the course of fulfilling the person's responsibilities as a hospital authority, a facility operator or an external supplier, as the case may be.

Rules for
specified
supplies

(15) Despite subsections (3), (4) and (4.1), for the purpose of applying subsection (4.1) to determine a rebate payable under subsection (3) or (4) to a person that is a hospital authority, a facility operator or an external supplier, for a claim period of the person, if the person is required to determine under paragraph (4.1)(b) a particular amount, in respect of a specified supply of property of the person made at any time, that would, if subsection (4) applied to the person, be determined by the formula in paragraph (4)(a) for the claim period and the value of C in that paragraph is the extent to which the person intended, at that time, to consume, use or supply the property in the course of specified activities, the particular amount shall be determined by the formula

$$A \times B$$

where

A is the amount that would, in the absence of this subsection, be determined to be the particular amount; and

B is the amount determined by the formula

$$(B_1 - B_2) / B_1$$

where

B₁ is the fair market value of the property at the time of the supply, and

B₂ is the fair market value of the property on January 1, 2005.

(11) Subsections (1) to (10) apply for the purposes of determining a rebate under section 259 of the Act of a person for claim periods ending on or after January 1, 2005, except that the rebate shall be determined as if those subsections had not come into force for the purposes of determining a rebate of a person for the claim period that includes that day in respect of

- (a) an amount of tax that became payable by the person before that day;
- (b) an amount that is deemed to have been paid or collected by the person before that day; or
- (c) an amount that is required to be added in determining the person's net tax

- (i) as a result of a branch or division of the person becoming a small supplier division before that day, or
- (ii) as a result of the person ceasing before that day to be a registrant.

24. Section 295 of the Act is amended by adding the following after subsection (6):

Confirmation
of registration
and business
number

(6.1) On being provided by any person with information specified by the Minister sufficient to identify a single person and a number, an official may confirm or deny that the following statements are both true:

- (a) the identified person is registered under Subdivision d of Division V; and
- (b) the number is the business number of the identified person.

1997, c. 10, s.
239(1)

25. Subsection 323(1) of the Act is replaced by the following:

Liability of
directors

323. (1) If a corporation fails to remit an amount of net tax as required under subsection 228(2) or (2.3) or to pay an amount as required under section 230.1 that was paid to, or was applied to the liability of, the corporation as a net tax refund, the directors of the corporation at the time the corporation was required to remit or pay, as the case may be, the amount are jointly and severally, or solidarily, liable, together with the corporation, to pay the amount and any interest on, or penalties relating to, the amount.

PART 4

AMENDMENTS IN RESPECT OF EXCISE TAX ON JEWELLERY, ETC.

R.S., c. E-15

EXCISE TAX ACT

26. (1) Section 5 of Schedule I to the *Excise Tax Act* is replaced by the following:

5. Clocks and watches adapted to household or personal use, except railway men's watches, and those specially designed for the use of the blind,

- (a) eight per cent of the amount by which the sale price or duty paid value exceeds fifty dollars, applicable after February 23, 2005 and before March 2006;
- (b) six per cent of the amount by which the sale price or duty paid value exceeds fifty dollars, applicable after February 2006 and before March 2007;
- (c) four per cent of the amount by which the sale price or duty paid value exceeds fifty dollars, applicable after February 2007 and before March 2008; and
- (d) two per cent of the amount by which the sale price or duty paid value exceeds fifty dollars, applicable after February 2008 and before March 2009.

5.1 Articles of all kinds made in whole or in part of ivory, jet, amber, coral, mother of pearl, natural shells, tortoise shell, jade, onyx, lapis lazuli or other semi-precious stones,

- (a) eight per cent, applicable after February 23, 2005 and before March 2006;
- (b) six per cent, applicable after February 2006 and before March 2007;

- | (c) four per cent, applicable after February 2007 and before March 2008; and
- | (d) two per cent, applicable after February 2008 and before March 2009.

5.2 The following articles, namely, articles commonly or commercially known as jewellery, whether real or imitation, including diamonds and other precious or semi-precious stones for personal use or for adornment of the person, and goldsmiths' and silversmiths' products except gold-plated or silver-plated ware for the preparation or serving of food or drink,

- | (a) eight per cent, applicable after February 23, 2005 and before March 2006;
- | (b) six per cent, applicable after February 2006 and before March 2007;
- | (c) four per cent, applicable after February 2007 and before March 2008; and
- | (d) two per cent, applicable after February 2008 and before March 2009.

(2) Subsection (1) is deemed to have come into force on February 24, 2005.

27. (1) Sections 5 to 5.2 of Schedule I to the Act are repealed.

(2) Subsection (1) comes into force on March 1, 2009.

